

LOUIS WOLKENSTEIN ("Plaintiff"), by and through his attorneys,
KIMMEL & SILVERMAN, P.C., alleges the following against SYNCHRONY
BANK f/k/a GE CAPITAL RETAIL BANK ("DEFENDANT"):

1. Plaintiff's Complaint is based on the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. §227.

2. Jurisdiction of this Court arises under 28 U.S.C. § 1331. See Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).

3. Defendant regularly conducts business in the Commonwealth of Pennsylvania, thus, personal jurisdiction is established.

1 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

2 **PARTIES**

3 5. Plaintiff is a “person” as that term is defined by 47 U.S.C. §153(39).

4 6. Plaintiff is a natural person residing in Scranton, PA.

5 7. Defendant is a “person” as that term is defined by 47 U.S.C. § 153(39).

6 8. Defendant is a corporation with its principal place of business located at
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8 950 Forrer Boulevard, Kettering, OH 45420.

9 9. Defendant acted through its agents, employees, officers, members,
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11 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,
12 representatives, and insurers.

13 **FACTUAL ALLEGATIONS**

14 10. Plaintiff has a cellular telephone number that he has had for at least one
15
16 year.

17 11. Plaintiff has only used this phone as a cellular telephone.

18 12. Beginning in or around mid-July 2015 and continuing thereafter,
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20 Defendant placed repeated telephone calls to Plaintiff’s cellular telephone number.

21 13. Defendant used an automatic telephone dialing system, automated
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23 message and/or prerecorded voice when contacting Plaintiff.
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1 14. Plaintiff knew that Defendant was using an automated telephone dialing
2 system because there would be an automated message that would play before he
3 would be transferred to a live caller.

4 15. Defendant's telephone calls were not made for "emergency purposes;"
5 rather, Defendant was attempting to collect account balances.
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7 16. Desiring to stop the repeated telephone calls, Plaintiff told Defendant to
8 stop calling when the calls first began in or around mid-July 2015.
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10 17. Defendant heard and acknowledged Plaintiff's instructions to stop
11 calling him.

12 18. Once Defendant was aware that its calls were unwanted and to stop,
13 there was no lawful purpose to continue making further calls, nor was there any
14 good faith reason to place calls.
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16 19. However, Defendant failed to update its records to restrict telephone
17 calls to Plaintiff's cellular telephone despite Plaintiff's repeated requests to stop
18 and continued to call Plaintiff through September 2015.

19 20. It was frustrating and annoying for Plaintiff to receive such continuous
20 and repeated telephone calls from Defendant on his cellular telephone and as such
21 Plaintiff took measures to block Defendant's calls.
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23 21. Upon information and belief, Defendant conducts business in a manner
24 which violates the TCPA.
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COUNT I
DEFENDANT VIOLATED THE TELEPHONE CONSUMER
PROTECTION ACT

22. Plaintiff incorporates the forgoing paragraphs as though the same were set forth at length herein.

23. Defendant initiated multiple automated telephone calls to Plaintiff's cellular telephone number.

24. Defendant's initiated these automated calls to Plaintiff using an automatic telephone dialing system.

25. Defendant repeatedly placed non-emergency calls to Plaintiff's cellular telephone.

26. Under § 227(b)(3)(A) of the TCPA, a person or entity may bring a private cause of action in an appropriate court based on a violation of the TCPA or the regulations prescribed under the TCPA to enjoin such violation.

27. Under § 227(b)(3)(B) of the TCPA, a person or entity may bring a private cause of action in an appropriate court "to recover for actual monetary loss from such a violation, or to receive \$500 in damages for each such violation whichever is greater."

28. Based upon the conduct of Defendant, Plaintiff avers that the enhancement of damages provided for by the TCPA allowing for Plaintiff to recover up to \$1,500 per call/violation be applied to calls placed.

1 29. Defendant's conduct violated § 227(b)(1)(A)(iii) of the TCPA by
2 placing repeated calls using an automatic telephone dialing system to Plaintiff's
3 cellular telephone.

4 30. Defendant's calls to Plaintiff's cellular telephone after he revoked
5 consent were not made with Plaintiff's prior express consent.

6 31. Defendant's acts as described above were done with malicious,
7 intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights
8 under the law and with the purpose of harassing Plaintiff.

9 32. The acts and/or omissions of Defendant were done unfairly, unlawfully,
10 intentionally, deceptively and fraudulently and absent bona fide error, lawful right,
11 legal defense, legal justification or legal excuse.

12 33. As a result of the above violations of the TCPA, Plaintiff has suffered
13 the losses and damages as set forth above entitling Plaintiff to an award of
14 statutory, actual and trebles damages.

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18 **PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiff, LOUIS WOLKENSTEIN, respectfully prays for a
20 judgment as follows:

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22 a. All actual damages suffered pursuant to 47 U.S.C. §
23 227(b)(3)(A);
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- b. Statutory damages of \$500.00 per violative telephone call pursuant to 47 U.S.C. § 227(b)(3)(B);
- c. Treble damages of \$1,500.00 per violative telephone call pursuant to 47 U.S.C. §227(b)(3);
- d. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3); and
- e. Any other relief deemed appropriate by this Honorable Court.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, LOUIS WOLKENSTEIN, demands a jury trial in this case.

RESPECTFULLY SUBMITTED,

By: /s/ Amy Lynn Bennecoff Ginsburg
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Dated: October 7, 2016